

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	1989.02
COMPLAINT INVESTIGATOR:	Connie Rahe
DATE OF COMPLAINT:	January 9, 2003
DATE OF REPORT:	January 29, 2003
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	March 6, 2003

**COMPLAINT ISSUES:**

Whether the Kokomo Center Consolidated School Corporation and the Kokomo Area Special Education Cooperative violated:

511 IAC 7-27-4(a)(4) by failing to convene a case conference committee (CCC) meeting when a change of placement is proposed or to be considered.

511 IAC 7-27-5(d)(3) by failing to obtain written consent from the parent when proposing to revise the student's individualized education program (IEP) by a change in placement, as defined in 511 IAC 7-17-13.

**FINDINGS OF FACT:**

1. The Student is ten years old, attends the local elementary school (the School), and qualifies for special education and related services under the category of emotional disability (ED).
2. The Student's IEP states the educational program as a "separate class," with 100% of services provided in the special education classroom. Separate class is defined in the IEP as 60% or more services per day provided outside the regular (general education) classroom. The Student's IEP written April 29, 2002, has behavior goals based on attached functional behavioral assessments completed by the Student's teachers in the month prior to the CCC meeting. Each IEP goal page contains a statement explaining the extent to which the Student will not participate with general education students to carry out this goal. The statement says the Student will increase participation with nondisabled peers as he progresses through a levels system or obtains a contracted class. The annual measurable goals are based on a reduction in behavioral difficulties, disruptive behavior, and non-compliant behaviors addressed in the levels system.
3. The Student earns mainstream classes, or is removed from mainstream classes, as part of the levels system. A "mainstreaming report" to the behavioral consultant listed the starting date for a general education art class (the art class) earned by the Student as August 15, 2002. A "removal report" stated the Student was removed from participation in art class on August 22, 2002, due to behavioral difficulties, disruptive behavior, and non-compliant behaviors, and was recommended to remain in the ED class during the art period.
4. The Complainant contends the removal from art class constituted a change in placement from a general education class to a special education class. The School contends the IEP provided for

enrolling or removing the Student from the art class under the levels program. In addition, the art class meets one period per week and does not change the Student's participation in the special educational program below the 60% or more services per day defined as a "separate class" placement.

5. The Student's IEP was reviewed at three CCC meetings held after the Student was removed from the art class but prior to this Complaint being filed. The CCC summary dated September 10, 2002, stated that the CCC met to discuss behavior concerns and agreed to continue the Student's behavior plan in the IEP, as written April 29, 2002, and the Student's parent (the Parent) signed agreement to continue the previous IEP. The CCC met on December 18, 2002, and January 7, 2003, and the Parent signed agreement to the IEP services at each of the CCC meetings. The levels system was not changed at any of the CCC meetings held between April 29, 2002, and January 7, 2003, to exclude the provision for earning or losing art class due to behavioral goals. No change of placement from full-time special education classes was discussed at any of the CCC meetings between September 10, 2002, and January 7, 2003, according to the CCC discussion summaries.

## **CONCLUSIONS:**

1. Findings of Fact #2 through #4 indicate that the art class participation was a component of the Student's IEP agreed upon by the CCC to enable the Student to achieve the IEP behavior goals, so the CCC was not required to meet again for this accommodation. In addition, the class met only one time per week and did not result in a reduction of special education services below the 60% required for the Student's current separate class placement. Therefore, no violation of 511 IAC 7-27-4(a)(4) is found.
2. Findings of Fact #5 indicate that the CCC has not proposed to change the Student's educational placement, but the Parent has provided written consent for all IEP changes made between September 10, 2002, and January 7, 2003. Therefore, no violation of 511 IAC 7-27-5(d)(3) is found.

**The Department of Education, Division of Exceptional Learners requires no corrective action based on the Findings of Fact and Conclusions listed above.**